

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LINDA REX,
Plaintiff

v.

SCHINDLER ELEVATOR CORPORATION,
Defendants

Civil Action No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1441, Defendant Schindler Elevator Corporation (“Schindler”) hereby removes this action¹ from the Superior Court of Massachusetts, Hampden County, to the United States District Court for the District of Massachusetts on the basis of diversity of citizenship.

Defendant Schindler, appearing for the purpose of this removal and preserving all other defenses available to it, state as follows:

1. Plaintiff Linda Rex (“Plaintiff”) commenced this action by filing her Complaint on or about August 5, 2020 in the Superior Court of Massachusetts, Hampden County (No. 2079CV00398) (the “State Court Action”).
2. On October 1, 2020, Plaintiff completed service of her Complaint on an agent of Schindler.
3. Plaintiff asserts one count of negligence against Schindler.

STATUTORY REQUIREMENTS – 28 U.S.C. §§ 1332, 1441, AND 1446

¹ SUPERIOR COURT (SPRINGFIELD); Hampden County, CIVIL ACTION NO.: 2079CV00398

4. Removal of this case is proper pursuant to 28 U.S.C. § 1446(a) and 28 U.S.C. § 1441(b) which permits a defendant to remove a civil action over which this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).
5. Under the statutory framework, an otherwise removable case may not be removed to federal court if any defendant is a citizen of the forum state. *See* 28 U.S.C. § 1441(b)(2).
6. As set forth in the Complaint, Plaintiff resides at 147 Southamptton Road, Holyoke, Hampden County, Massachusetts. Accordingly, for purposes of diversity jurisdiction, Plaintiff is a citizen of Massachusetts. (*See* Exhibit A, Complaint, at ¶1.)
7. Schindler is a corporation duly organized under the laws of New Jersey, and it has its principal place of business at 20 Whippany Road, Morristown, Morris County, New Jersey. Accordingly, for purposes of diversity jurisdiction, Schindler is a citizen of New Jersey. *See* 28 U.S.C. § 1332(c)(1).
8. Complete diversity of citizenship exists between Plaintiff and Schindler pursuant to 28 U.S.C. § 1332, and this case is removable pursuant to 28 U.S.C. § 1441(b)(2).
9. As indicated by Plaintiff's Civil Action Cover Sheet, Plaintiff claims in excess of \$241,750 in damages. *See* Exhibit A (Civil Action Cover Sheet).
10. The amount in controversy with respect to Plaintiff's claim, exclusive of interest and costs, therefore, exceeds \$75,000. *See* 28 U.S.C. § 1332(a).

PROCEDURAL REQUIREMENTS AND LOCAL RULES

11. Removal to Proper Court. This Court is part of the "district and division" embracing the place where this action was filed – Hampden County. *See* 28 U.S.C. §§ 1441(a), 1446(a).
12. Removal is Timely. Schindler is entitled to remove the State Court Action at any time up to 30 days after receipt, through service or otherwise, of a copy of an "order from which it

may be first ascertained the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3).

13. Consent. Plaintiff only asserts a claim against Schindler. Therefore, consent to removal is not required. *See* 28 U.S.C. § 1446(b)(2)(A).
14. Pleadings and Process. Attached as Exhibit B is a copy of all process, pleadings, and orders received by Schindler in the State Court Action. *See* 28 U.S.C. § 1446(a). Pursuant to Local Rule 81.1, Schindler will file certified or attested copies of all records and proceedings in the state court and a certified or attested copy of all docket entries in the state court within 28 days of the filing of this Notice of Removal. Schindler has paid the appropriate filing fee to the Clerk of Court upon the filing of this Notice.
15. Notice. Schindler will promptly serve upon Plaintiff, and file with the Clerk of The Superior Court of Hampden County, Massachusetts, a Notice of Removal to All Adverse Parties, pursuant to 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit C, with its exhibits omitted. Schindler will also file with the Clerk of The Superior Court of Hampden County, Massachusetts, a Notice of Filing Notice of Removal, pursuant to 28 U.S.C. § 1446(d), a Copy of which is attached hereto as Exhibit D, with its exhibits omitted.
16. Signature. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See* 28 U.S.C. § 1446(a).

CONCLUSION

17. Based upon the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, and the State Court Action may be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

18. Schindler has not yet filed its Answer and hereby reserves any and all rights and defenses by law it can assert therein or which may arise in the future as well their demand for a trial by jury on all counts and on all issues in the Complaint and forthcoming Answer. Schindler further reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, this action should proceed in the United States District Court for the District of Massachusetts, as an action properly removed thereto.

THE DEFENDANT,
SCHINDLER ELEVATOR CORPORATION,
BY ITS ATTORNEYS,

/s/ Dawn M. Piccirilli

DATED: 10.29.20

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 29th day of October, 2020

/s/ Dawn Piccirilli

Dawn M. Piccirilli, BBO #630502

Counsel for Defendant Schindler Elevator Corporation